

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on February 19, 2003 at 3:11 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Arlene Becker, Vice Chairman (D)
Rep. Mark Noennig, Vice Chairman (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Daniel S. Hurwitz (R)
Rep. Larry Jent (D)
Rep. Penny Morgan (R)
Rep. Holly Raser (D)
Rep. Don Roberts (R)
Rep. Ron Stoker (R)
Rep. Jonathan Windy Boy (D)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
CJ Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 569, HB 585, HB 647
Executive Action: HB 647, Do Pass; HB 585, Do Pass;
HB 569, Do Pass As Amended;
HB 260, Tabled; HB 484, Do Pass As
Amended; HB 493, Do Pass As
Amended; HB 557, Do Pass;
HB 592, Tabled; HJ 19, Do Pass As
Amended, on Consent Calendar

HEARING ON HB 569

{Tape: 1; Side: A; Approx. Time Counter: 0.1 - 9.5}

Susan Fox, Legislative Branch, distributed the amendment for HB 569.

EXHIBIT (huh37a01)

Sponsor: REP. GUTSCHE, HD 66, Missoula

Opening Statement by Sponsor:

REP. GUTSCHE said that HB 569 is a bill about the At-Home Infant Care program. Montana is the second state to implement a program like this. The mother is paid for her in-home infant care up to \$370 per month or \$17 per day. She said that there is a critical shortage in childcare today, especially in rural areas, and this would help that problem. REP. GUTSCHE offered an amendment (Exhibit 1) that strikes out Page 1, Line 12, and eliminates the \$15 million fiscal note.

Proponents' Testimony:

Gail Gary, Director, Department of Health and Human Services (DPHHS), said that DPHHS has worked closely with WEEL on this program and DPHHS strongly supports the bill.

Mary Caferro, Working for Equality and Economic Liberation (WEEL), explained that HB 569 is based on a pilot program and stated that there was a 33% savings with the at-home infant care program. They urge that this bill pass.

REP. CAROL JUNEAU, HD 85, supports the bill.

{Tape: 1; Side: A; Approx. Time Counter: 9.5 - 30}

Kate Cohn, Director for WEEL, explained that there are potential funds for the At-Home Infant Care program from two sources: 1) the Child Care Block Grant; and 2) the welfare program.

Angela Paulsen, mother, student at college, provided written testimony in support of HB 569 and shared her personal experience.

EXHIBIT (huh37a02)

Steve Yeakel, Montana Childcare Resource and Referral Network (MCRRN), also stood in support of the bill and provided a letter from Lori Evans, President, MCRRN.

EXHIBIT (huh37a03)

Pastor Bob Holmes, Helena, supported this bill, stating that it will help to rebuild this society.

Andrea Shipley, WEELS, Missoula, read two letters of families who benefitted from this program.

EXHIBIT (huh37a04)

Jodi Medlar, WEEL Board Member, read a letter from Heidi Wallace in support of HB 569.

EXHIBIT (huh37a05)

Jinny Knight said that she helped in developing this program and stood in support of HB 569.

EXHIBIT (huh37a06)

Chris Volinkaty, Child and Family Services, Executive Director of the Child Development Center, Missoula, explained that he works with those who are mentally delayed or developmentally disabled and is also very impressed with this program.

Judy Smith, WORD, distributed a letter from Naomi Thornton. Ms. Smith stressed particularly the last two bullets of the letter.

EXHIBIT (huh37a07)

Betty Whiting, Montana Association of Churches, stood to support the bill.

Wally Melcher, MAIDS/MAR, supports HB 569.

Amber Burns supports HB 569.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 8}

Linda Gryczan, Montana Women's Lobby, supports HB 569.

Colleen Murphy, National Association of Social Workers, supports HB 569.

Bob Dean, NASW, Missoula, works as an in-home family therapist and supports HB 569.

Pastor Holmes said that this bill helps and cares for children and mothers at home.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

REP. MORGAN asked if families on welfare receive this money. **Hank Hudson, DPHHS**, explained that they have to do one or the other; they cannot receive funds from both programs.

REP. MORGAN then asked about including an amendment for mothers taking online college courses as an incentive to continue their education. **Gail Gray, DPHHS**, responded that mothers under age 18 are required to work toward finishing high school. The terms also include that a mother cannot be on the program for more than 24 months. A mother can divide it into 12 months one time, and receive another 12 months at a separate time if they wish.

{Tape: 1; Side: B; Approx. Time Counter: 8 - 10.7}

Mary Caferro, WEEL, pointed out that mothers who enter the program are usually already working mothers.

REP. FACEY asked Ms. Caferro to explain the savings created through the program. **Ms. Caferro** said that with the pilot program, the regulations were based on the state childcare rules and regulations. Through this program, this family is receiving money to cover the mother staying home, without having to pay for outside childcare for each of the children.

{Tape: 1; Side: B; Approx. Time Counter: 10.7 - 26}

Mary Caferro said they did a survey of families. Families cannot accept any other payments such as welfare and childcare. They can, however receive a check for childcare if they qualify.

REPS. ROBERTS asked **REP. GUTSCHE**, who deferred the question to Kate Kahan to expound on the funding sources. **Ms. Kahan, WEEL**, explained that this was funded by federal money from the Child Care Block Grant and welfare.

REP. HAWK asked how this program was funded. **Ms. Kahan** said it was modeled after a program in Minnesota, and the pilot program was funded by state money.

Closing by Sponsor:

REP. GUTSCHE explained that the estimated cost savings to the State would be \$43 per family per month, or \$24,000 per month. There is a savings to the Best Beginnings Scholarship program of \$90,351. The savings of combined childcare and infant at home care is \$114,388. She urged the committee to pass HB 569. She praised WEEL and their work with DPHHS.

HEARING ON HB 585

Sponsor: **REP. EVE FRANKLIN, HD 42, Great Falls**

Opening Statement by Sponsor:

REP. FRANKLIN said that there are barriers in statute regarding living will protocol for advanced practice registered nurses (APRN). A living will allows a terminally ill patient to state their preferred treatment in advance. This bill allows an APRN to be involved in that process in addition to the primary care physician. This bill allows a nurse to be recognized as a health care provider with living will authority. Today, nurses have more and greater autonomy and need to be granted that leverage.

{Tape: 1; Side: B; Approx. Time Counter: 26 - 30}

Proponents' Testimony:

Sami Butler, Montana Nurses' Association (MNA), distributed and went over a packet of letters and information in support of HB 585.

EXHIBIT (huh37a08)

Dr. George Ramirez, family physician, deals with end-of-life care and is in support of HB 585.

{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 11}

Jennifer Elison, MNA, supports HB 585. She works with a volunteer group in Helena that deals with bereavement care. Only 24% die at home even though over 70% made that same request but deceased in the hospital.

{Tape: 2; Side: A; Approx. Time Counter: 11 - 20}

Linda Torma, MNA, has her teaching certification and is working on her doctorate degree from the University of Oregon.

Kate Bratches, Montana Senior Citizens' Association (MSCA), deals with hospice care and supports HB 585.

Verner Bertelsen, MSCA, supports HB 585.

Carla Gibson, APRN, Missoula, urged the committee to pass this bill.

{Tape: 2; Side: A; Approx. Time Counter: 20 - 28.8}

Opponents' Testimony:

Susan Good, representing Anesthesiologists, said they applaud the good work of APRNs. However, not all APRNs have graduate education. She had a concern with Page 2, Line 3 sub 16, Line 21, Page 2. She said that the decision to determine if a person is terminal needs to be supervised or at least consulted by a doctor.

{Tape: 2; Side: A; Approx. Time Counter: 29.5 - 31}

Ken Threet, DPHHS/EMSIP, also opposed HB 585.

Questions from Committee Members and Responses:

REP. GALLUS asked if **REP. FRANKLIN** had any contact with other doctors' organizations or any opposition. She replied that she had not had any opposition from them. **REP. GALLUS** also asked why more doctors were not present to testify. **REP. FRANKLIN** said that physicians have learned how to work with APRNs.

{Tape: 2; Side: B; Approx. Time Counter: 0.1 - 6.3}

REP. RASER asked about Page 1, Lines 15, 16, and 17 and what the requirements are for an APRN from the Board of Nursing. **Sami Butler** explained that it included completion of an approved nursing program and since 1995, requires a Master's Degree and national certification.

REP. MORGAN asked Ms. Butler about the requirement for a Masters or Doctoral degree. **Ms. Butler** responded that for certification, only after 1995 does the law require an advanced degree. APRNs practicing before 1995 are grandfathered in. A competency exam is required.

{Tape: 2; Side: B; Approx. Time Counter: 6.3 - 17}

REP. MORGAN asked **REP. FRANKLIN** about the differing education requirements. She suggested that those with higher education should have higher privileges and responsibilities. **REP.**

FRANKLIN answered that the Board controls those issues.

REP. NOENNIG asked the sponsor what an APRN does and what their duties are. **The sponsor** responded and explained.

{Tape: 2; Side: B; Approx. Time Counter: 17 - 27}

REP. NOENNIG asked about the regulation of living wills that are already in place. **The sponsor** said that the document includes the attending health care provider.

REP. NOENNIG asked if the anesthesiologists would be amenable to the language. **Susan Good** said that she believes that the education and expertise requirements are very different between doctors and nurses and would like to keep the final authority with the physicians.

REP. ROBERTS asked a question about APRNs in rural areas. **Dr. Ramirez** responded that they need to pass the bill to not impede on the end-of-care patient and force a physician to diagnose a patient they haven't treated and do not know.

REP. ROBERTS asked how many anesthesiologists have been involved in end-of-life-care treatment. **Dr. Ramirez** replied that there are none.

REP. FACEY asked Sami Butler about counties that don't have an attending physician. **Ms. Butler** named the counties, and went on to explain certification requirements for APRNs.

{Tape: 2; Side: B; Approx. Time Counter: 27 - 30}

Carla Gibson explained that there are four types of APRNs.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 10.5}

REP. RASER asked if this bill is limited to those already diagnosed as terminally ill. **Ms. Butler** referred to Page 8, Line 26; all APRNs collaborate with specialists.

REP. BECKER wondered about the applicability to physicians assistants (PA). **Ms. Butler** said they have already discussed this bill with PA Associations, who declined the opportunity to add themselves to the bill. Any PA has a Bachelor of Science

degree and has to be supervised by a physician. An APRN has a Master's Degree and can practice independently.

CHAIRMAN THOMAS asked how many APRNs there are in Montana. **Sami Butler** replied that there are 489. She said that there are shortages, but the APRNs are distributed throughout the state.

Closing by Sponsor:

The sponsor closed.

{Tape: 3; Side: A; Approx. Time Counter: 10.5 - 15}

HEARING ON HB 647

Sponsor: REP. BILL THOMAS, HD 93

Opening Statement by Sponsor:

REP. THOMAS said this bill deals with one of the most complicated portions in Montana law, governing health care providers. The bill was put together by MHA and Montana Health Care Providers. This bill makes multiple changes in statute in the new technical requirements. HB 647 brings Montana into current federal standards and provides exemption from HIPAA. Section 16 through Section 26 is all new language.

{Tape: 3; Side: A; Approx. Time Counter: 15 - 23.5}

Proponents' Testimony:

Bob Olson, MHA, explained the bill and the changes in medical records. He explained that the bill is an attempt to simplify matters and remove all doubt of when to follow state law and when to follow federal law.

Katherine Donnelly, MHA, Attorney, helped write this bill. She explained that the deadline to implement HIPAA is April 2003. HIPAA standardizes the process of electronic transfers, so Montana will be able to work with other states. Page 5, Lines 14-19 is mostly housekeeping. This bill provides protection for those not covered by federal law.

Bob Olson addressed the new sections, 16-26, in Exhibit 9.

EXHIBIT (huh37a09)

{Tape: 3; Side: A; Approx. Time Counter: 23.5 - 27.6}

Pat Melby, Montana Medical Association, Attorney, also explained the need for this bill and its relationship to the Uniform Health Care Information Act. If all states had followed that Act, there wouldn't be a need for HIPAA standards. He said this bill helps health care providers know which law they need to follow (state or federal).

Mary McCue, Montana Dental Association, pointed out that most dentists are not filing electronically. This bill would help and encourage them to file electronically.

Jeanne Cannon, Montana Health Information Management Association (MHIMA), supports HB 647 and stated that MHIMA is in agreement with this bill.

Al Smith, Montana Trial Lawyers Association (MTLA), also supports the bill and especially Section 20. MTLA has a concern with Page 4, Section 6, Lines 22-24, but they will wait to work with the Senate.

Opponents' Testimony: None.

{Tape: 3; Side: A; Approx. Time Counter: 27.6 - 30.1}

Questions from Committee Members and Responses:

REP. FACEY asked why the committee should wait until this bill goes to the Senate to apply the amendments. **Bob Olson** replied that not all of the issues have been raised and resolved yet.

{Tape: 3; Side: B; Approx. Time Counter: 0.1 - 9}

REP. NOENNIG asked Katherine Donnelly for further explanation of how state and federal laws apply and how this bill changes those regulations. **Ms. Donnelly** referred to Section 7, Page 4, Line 26 and explained those changes with the bill (Exhibit 9). **REP. NOENNIG** and **Ms. Donnelly** continued discussing the bill at length.

{Tape: 3; Side: B; Approx. Time Counter: 9 - 15.3}

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON HB 647

{Tape: 3; Side: B; Approx. Time Counter: 16.2 - 17}

Motion: REP. THOMAS moved that HB 647 DO PASS.

Discussion:

REPS. ROBERTS and FACEY stated their support for HB 647.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON HB 585

{Tape: 3; Side: B; Approx. Time Counter: 17 - 30}

Motion: REP. FACEY moved that HB 585 DO PASS.

Discussion:

REP. ROBERTS stated his support for HB 585.

REP. NOENNIG said that he has serious reservations about this bill, and the determination of someone other than a physician, that a person is terminally ill.

REP. STOKER explained that he is seeing more nonphysicians attaining more medical authority, and this bill also worries him.

REP. ROBERTS explained his view of the need for this bill.

REP. NOENNIG also added his interpretation of the bill.

{Tape: 4; Side: A; Approx. Time Counter: 0.1 - 10}

REP. FACEY also made a comment (not on the tape).

REP. RASER stated that APRNs will only take on what they can do in the scope of their rules governed by their Board of Nursing. She said that these APRNs are currently attending the terminally ill, and are already their primary care giver.

REP. GALLUS said that this bill grants greater responsibility, not greater liability. He stated that if there was a great question on this, more doctors would have been here to oppose.

REP. HURWITZ shared the story of his father's experience.

REP. ROBERTS said if he were a nurse in a small, rural area and called a doctor, he said the doctor would not know the family and might not advise what the best thing for them would be.

REP. HAWK stated that he talked to Pat Melby, who said that the physicians are happy with the bill and support it.

REP. STOKER had a question on Section 16, Page 8, Line 28 as to whether a nurse could induce death. **REP. NOENNIG** stated that the bill deals with withholding death, not inducing it.

Vote: Motion carried 12-1 with **REP. NOENNIG** voting no.

EXECUTIVE ACTION ON HB 569

{Tape: 4; Side: A; Approx. Time Counter: 10 - 16.9}

Motion: **REP. GALLUS** moved that HB 569 DO PASS.

Motion: **REP. GALLUS** moved that HB 569 BE AMENDED.

Discussion:

REP. GALLUS explained the amendment, which is contingent funding.

REP. MORGAN asked about the \$7 million on the fiscal note. **Susan Fox, Legislative Branch**, responded.

{Tape: 4; Side: A; Approx. Time Counter: 16.9 - 21.4}

REP. WINDY BOY had a concern about public assistance and asked if the Tribes have been consulted on this matter. **Susan Fox** explained that it is a pilot program that is now run through DPHHS, and will only be possible if they can get the Child Care Block Grant or the TANF Block Grant. **REP. WINDY BOY** expressed additional concern, saying that the Tribes comprise over 51% of the total caseload of State welfare, and he was not aware they have been notified.

REP. HURWITZ asked if there were still some children on it. **Mary Caferro** said the program is dead right now and children won't get the help unless new money comes in.

{Tape: 4; Side: A; Approx. Time Counter: 21.4 - 26}

REP. STOKER had some concern with the large amount of funding.

REP. GALLUS stated that the amendment might "gut" the bill.

REP. STOKER asked for additional clarification on the funds a family could receive with this bill.

REP. RASER wanted to know more about the private sources of funding; she stated the need to pursue the funding.

Vote: Motion carried 12-1 with **REP. WINDY BOY** voting no.

Motion/Vote: **REP. GALLUS** moved that **HB 596 Do Pass As Amended**. Motion carried 10-3 with **REPS. HAWK, STOKER** and **WINDY BOY** voting no.

EXECUTIVE ACTION ON HB 260

{Tape: 4; Side: A; Approx. Time Counter: 26 - 30}

Motion: **REP. FACEY** moved that **HB 260 DO PASS**.

Discussion:

REP. FACEY offered a conceptual amendment. The amendment is found on Page 4, Line 5. The amendment puts into law current statutes cornea, kidney, bone marrow transplants, and stem cells. It also strikes the word "may."

{Tape: 4; Side: B; Approx. Time Counter: 0 - 7.5}

REP. NOENNIG said he agreed with the concept, but doesn't agree with the bill.

REP. HAWK asked **REP. NOENNIG** to explain the issue with transplants. **REP. NOENNIG** told him of the transplants now being done, and the question of funding one transplant versus another.

REP. FACEY withdrew his motion to conceptually amend.

{Tape: 4; Side: B; Approx. Time Counter: 7.5 - 13.8}

REP. MORGAN asked why **REP. HAINES** wanted to pass this bill out on the floor for debate. **REP. NOENNIG** explained the ethical dilemma for the doctors to tell one patient they can have a transplant, and the patient in the other bed that they cannot. **REP. NOENNIG** stated that he sees no reason to pass it to the floor.

REP. ROBERTS said that there is a new cardiac medication out, leaving no reason for transplants.

Motion/Vote: REP. WINDY BOY moved that HB 260 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 484

{Tape: 4; Side: B; Approx. Time Counter: 13.8 - 19.5}

Motion: REP. FACEY moved that HB 484 DO PASS.

Susan Fox distributed the amendment.

EXHIBIT (huh37a10)

Motion: REP. MORGAN moved that HB 484 BE AMENDED.

Discussion:

Susan Fox explained the amendment (Exhibit 10).

{Tape: 4; Side: B; Approx. Time Counter: 19.5 - 30}

REP. BECKER asked for clarification regarding the court setting the minimum requirements. Ms. Fox replied that the subcommittee took out the references to the court.

REP. NOENNIG said the problem was in the summary of subcommittee Page 3, Lines 2-3.

REP. WINDY BOY asked for the definition of "controlling behavior." The sponsor responded.

Vote: Motion carried unanimously.

Motion: REP. NOENNIG moved that HB 484 DO PASS AS AMENDED.

Discussion:

REP. FACEY had a concern regarding the bottom of Page 2 and top of Page 3, Line 1.

REP. STOKER asked about funding and REP. WINDY BOY shared how the program is being conducted in Havre.

{Tape: 5; Side: A; Approx. Time Counter: 0 - 4.9}

CHAIRMAN THOMAS asked if physical violence is included in this bill. **REP. NOENNIG** replied that it is.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON HB 493

{Tape: 5; Side: A; Approx. Time Counter: 4.9 - 14}

Motion: **REP. MORGAN** moved that HB 493 DO PASS.

Susan Fox distributed the amendment.

EXHIBIT (huh37a11)

Motion/Vote: **REP. RASER** moved that HB 493 BE AMENDED. Motion carried unanimously.

Motion: **REP. HAWK** moved that HB 493 DO PASS AS AMENDED.

Discussion:

REP. NOENNIG had a question on the amendment so **Susan Fox** further explained Exhibit 11.

CHAIRMAN THOMAS observed that there were no opponents.

REP. HURWITZ said his notes suggest to table the bill.

Vote: Motion carried 12-1 with **REP. HAWK** voting no.

EXECUTIVE ACTION ON HB 557

{Tape: 5; Side: A; Approx. Time Counter: 14 - 18}

Motion: **REP. BECKER** moved that HB 557 DO PASS.

Discussion:

REP. ROBERTS said this is an excellent way for a program to organize something already great.

Vote: Motion carried 12-1 with **REP. HAWK** voting no.

EXECUTIVE ACTION ON HB 592

{Tape: 5; Side: A; Approx. Time Counter: 18 - 20}

Motion: REP. WINDY BOY moved that HB 592 DO PASS.

Motion: REP. BECKER moved that HB 592 BE AMENDED.

Discussion:

REP. NOENNIG stated that he spoke with the sponsor and she found out they are already doing what the amendment provides for and thus, there is no need for the bill.

Substitute Motion/Vote: REP. NOENNIG made a substitute motion that HB 592 BE TABLED. Substitute motion carried unanimously.

EXECUTIVE ACTION ON HJ 19

{Tape: 5; Side: A; Approx. Time Counter: 20 - 25.3}

Motion: REP. RASER moved that HJ 19 DO PASS.

Motion: REP. WINDY BOY moved that HJ 19 BE AMENDED.

Discussion:

REP. WINDY BOY distributed and explained that the amendment is in accordance with previous action on HJ 13.

EXHIBIT (huh37a12)

Vote: Motion carried unanimously.

Motion: REP. RASER moved that HJ 19 DO PASS AS AMENDED.

Discussion:

REP. RASER stated that DPHHS has said that this is a complimentary portion to HJ 13 and not meant to replace it.

Vote: Motion carried unanimously.

The Committee decided to put HJ 19 on the Consent Calendar.

ADJOURNMENT

Adjournment: 7:50 P.M.

REP. BILL THOMAS, Chairman

CJ JOHNSON, Secretary

BT/CJ

EXHIBIT (*huh37aad*)